

ESTTA Tracking number: **ESTTA386293**

Filing date: **01/03/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Reliant Management Group, LLC		
Entity	limited liability company	Citizenship	Louisiana
Address	11959 Bricksome Avenue Suite A Baton Rouge, LA 70816 UNITED STATES		

Attorney information	David W. Nance D.W. Nance, LLC 3912 Constance Street New Orleans, LA 70115 UNITED STATES david@dwnance.com Phone:504-717-4730
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Registration Subject to Cancellation

Registration No	3748850	Registration date	02/16/2010
Registrant	ReliantHospital Partners, LLC 15851 Dallas Parkway, Suite 500 Addison, TX 75001 UNITED STATES		

Goods/Services Subject to Cancellation

Class 044. First Use: 2007/01/01 First Use In Commerce: 2007/01/01 All goods and services in the class are cancelled, namely: Extended acute care hospitalization services and skilled nursing facility providing inpatient and outpatient care consisting of treatment programs following a major illness, trauma, or surgery

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Related Proceedings	USPTO CANCELLATION NO. 92051514 - Suspended USDC-NDTX Civil Action No. 3:10-CV-122-B
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3426134	Application Date	08/27/2007
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	RELIANT REHABILITATION		
Design Mark			
Description of Mark	<p>The mark consists of a solid white background; on the left and centered vertically is a vertically split pentagon tilted to the left with a red side on the left, a blue side on the right and the white background visible in the hollowed center with a red flame rising from the bottom of the red, left side vertically upwards almost to the top of the blue right side of the pentagon; immediately to the right of the pentagon are the words in black "Reliant" on top of "Rehabilitation" both aligned on the left with the first word extending half as far to the right as the second word. .</p>		
Goods/Services	<p>Class 044. First use: First Use: 2003/07/00 First Use In Commerce: 2003/11/00 Physical rehabilitation; Providing physical rehabilitation facilities</p>		
Attachments	<p>77264934#TMSN.jpeg (1 page)(bytes) 20101228DWN1339 Pet for Cancellation RHospP.pdf (3 pages)(105934 bytes)</p>		

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/David W. Nance/
Name	David W. Nance
Date	01/03/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD

_____	CANCELLATION NO. _____
RELIANT MANAGEMENT GROUP, LLC	MARK: RELIANT HOSPITAL PARTNERS
Petitioner,	REGISTRATION NO. 3748850
vs.	CLASS: 44
RELIANT HOSPITAL PARTNERS, LLC	SERVICES: Extended acute care hospitalization
Registrant.	services and skilled nursing facility providing
_____	inpatient and outpatient care consisting of
	treatment programs following a major illness,
	trauma, or surgery.
	REGISTERED: February 16, 2010

PETITION TO CANCEL TRADEMARK REGISTRATION NO. 3748850

Petitioner, Reliant Management Group, LLC ("Petitioner"), with an address of 11959 Bricksome Avenue, Suite A, Baton Rouge, LA 70816, believes that it will be damaged by the continued registration of the mark covered by Registration No. 3,748,850 and hereby petitions to cancel the registration of said mark.

The Trademark Applications and Registrations Retrieval (TARR) report for Registration No. Registration No. 3,748,850 identifies Reliant Hospital Partners, LLC ("Registrant"), a limited liability corporation with an address of 15851 Dallas Parkway, Suite 500 Addison, Texas, 75001, as the owner of said registration.

As grounds for the Petition, it is alleged as follows:

1. On May 13, 2008, Petitioner registered the mark RELIANT REHABILITATION and Design as a service mark for "[p]hysical rehabilitation; [p]roviding physical rehabilitation facilities" in International Class 44 (Petitioner's Mark"), first use 20030700 and first use in commerce 20031100 under Registration No. 3426134.

2. On May 13, 2009, Registrant filed an application for the mark RELIANT REHABILITATION

HOSPITAL and Design, Serial Number 77736104 for "[e]xtended acute care hospitalization services and skilled nursing facility providing inpatient and outpatient care consisting of treatment programs following a major illness, trauma, or surgery," in International Class 44 , first use 20070101 and first use in commerce 20070101 ("Registrant's First Mark).

3. On May 13, 2009, Registrant also filed an application for the mark RELIANT HOSPITAL PARTNERS and Design (identical to that in Registrant's First Mark), Serial Number 77736077 for "[e]xtended acute care hospitalization services and skilled nursing facility providing inpatient and outpatient care consisting of treatment programs following a major illness, trauma, or surgery," in International Class 44, first use 20070101 and first use in commerce 20070101 ("Registrant's Second Mark).

4. On August 15, 2009, the Trademark Examiner issued an Office Action against Registrant's First Mark citing a likelihood of confusion with Petitioner's Mark.

5. RHP filed with the Trademark Examiner a request to suspend further action against RHP's Mark and then filed a petition for cancellation (No. 92051514) of Petitioner's Mark, after having received a notice of mark infringement letter from Petitioner's counsel. The administrative proceedings were eventually suspend upon Petitioner's motion after Petitioner filed suit in federal district court against Registrant alleging infringement and other claims under state and federal law.

6. Upon information and belief, Registrant's use of its First Mark and Second Mark cause job applicants, customers, and patients of both parties to be confused as to the relationship of the parties to all three marks. Whereas, Petitioner's use of its mark predated Registrant's use by approximately five years. Both of Registrant's marks contain similar wording, including the word Reliant, and contain the exact same graphic design. Moreover, common practice within the industry is to refer to Petitioner and to Registrant as "Reliant." Indeed, both parties commonly refer to themselves and even operate websites in which they refer to themselves and Registrant's partnering hospitals as "Reliant." As Petitioner's customers are hospitals and similar healthcare providers, the confusion has caused harm to Petitioner.

7. Upon information and belief, Registrant used Registrant's First Mark exclusively until recently when Registrant suddenly substituted Registrant's Second Mark where ever quickly possible—e.g., website copy and advertisements—but still has not changed signage or even name tags of its licensees'

hospitals and employees.

8. Upon information and belief, Registrant is using or permitting the use of Registrant's Second Mark so as to misrepresent the source of services in connection with which Registrant's Second Mark is used. Registrant is aware that job applicants are confused by the similarity of the three marks and inevitably contact Registrant for jobs when they intended to contact Petitioner.

9. Upon information and belief, Registrant's use its marks dilutes the value of Petitioner's Mark, as Petitioner has no control of the quality of service provided by Registrant to customer and patients who believe they are being cared for by Petitioner. Moreover, Petitioner has no way of knowing how Registrant treats job applicants who are responding to advertisements for positions with Petitioner.

10. Petitioner will be damaged by the continued registration of Registrant's Mark in that Petitioner is using the mark RELIANT REHABILITATION and Design in commerce and the registration of said mark is being impaired by the continued registration of Registrant's Second Mark. Further, if Registrant's Mark is permitted to remain on the Principal Register, with all the substantive and procedural benefits conferred by its status as a registration on the Principal Register, Registrant will enjoy unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946.

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Date: January 3, 2011